

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
San Francisco Division

LOUIS BERYL,  
Plaintiff,

v.

NAVIENT CORPORATION, et al.,  
Defendants.

Case No. 20-cv-05920-LB

**FINAL PRETRIAL ORDER**

Re: ECF No. 49

The court held a pretrial conference on October 13, 2022. The court issues this pretrial order pursuant to Federal Rule of Civil Procedure 16(e).

**1. Trial Date and Length of Trial**

The jury trial will begin on Tuesday, October 25, 2023, in Courtroom D, 15th Floor, U.S. District Court, 450 Golden Gate Avenue, San Francisco, California.

A. The trial will last up to five days. Generally, the trial day will run from 8:30 a.m. to approximately 1:30 or 2:00 p.m. (or slightly longer to finish a witness) and will include two fifteen-minute breaks. Counsel must arrive at 8:15 a.m. to address any issues (such as objections) before the trial day begins. Once the jury begins deliberations, it usually stays past 2:00 p.m. Tuesday will run the full day starting at 9:00 a.m., which is the time that the jury arrives, until 5:00

p.m. and will include jury selection, opening statements, and one or two witnesses, as the day permits. This results in about five hours of trial testimony each day.

B. Each party will have up to eight hours per side for direct examination of its witnesses and to cross examine the other side's witnesses, including all objections raised during the trial day. In addition, each side may have up to thirty minutes for an opening statement and an hour for closing argument (including rebuttal closing for the plaintiff). For the bench trial, the parties may submit written closing arguments of up to twenty-five pages within seven days of the end of trial or make an oral argument, as they prefer.

## **2. Procedures During Trial; Exhibit and Witness Lists; Witnesses**

The court's December 3, 2020, Case-Management and Pretrial Order has the court's trial procedures for the presentation of exhibits, depositions, and witness testimony, including specific procedures for deposition excerpts.<sup>1</sup>

The parties have identified their witnesses on their separate witness lists. As discussed at the pretrial conference, if the parties identify the same witnesses, the defendant will examine the witness when the plaintiff calls them (as opposed to recalling them).

## **3. Claims, Defenses, and Relief Sought**

The parties will try all claims. Counts one and two will be tried to the court, and counts three through six will be tried to the jury. The counts (the claims) are (1) severance pursuant to ERISA § 502(a)(1)(B), (2) breach of fiduciary duties pursuant to ERISA § 502(a)(3), (3) breach of contract, (4) a violation of California Labor Code § 204, (5) penalties pursuant to California Labor Code § 203, and (6) estoppel.

The parties' positions (claims, defenses, relief sought) are reflected in their joint proposed pretrial order at ECF No. 49 at 2–14.

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<sup>1</sup> Case-Mgmt. and Pretrial Order – ECF No. 19 at 3–14. Citations refer to material in the Electronic Case File (ECF); pinpoint citations are to the ECF-generated page numbers at the top of documents.

**4. Stipulations**

The parties submitted a joint statement of stipulated facts.<sup>2</sup> At trial, the parties must have a document reflecting any evidentiary stipulations in a format that can be read into the record and introduced as an exhibit.

**5. Motions in Limine (MILs)**

The parties have not filed any MILs but will file one MIL on October 23, 2022, by 8 p.m.

**6. Objections to Exhibits**

Pursuant to the court's December 3, 2020, Case-Management and Pretrial Order and Rule 26(a)(3), objections, if any, to exhibits were due within fourteen days after the pretrial disclosures were made. The parties filed their joint exhibit list on September 26, 2022.

**7. Jury Instructions**

The court will file preliminary jury instructions and proposed final jury instructions and will hold an instructions conference during trial and before closing argument to finalize any issues about the instructions.

**8. Verdict Form**

The court will file a proposed verdict form and will finalize it before closing argument.

**9. Voir Dire and Jury Questionnaire**

The court adopts the parties' proposed voir dire questions and will use the court's standard jury questionnaire appended to the end of the December 3, 2020, Case-Management and Pretrial Order. The court allows attorney voir dire. Each side may have up to one hour.

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<sup>2</sup> Joint Proposed Pretrial Order – ECF No. 49 at 3–5.

**10. Trial**

The court's ordinary processes are as follows. By October 23, 2022, counsel must give notice of the order of proof (meaning, the order of witnesses and the exhibits, including illustrative exhibits used in opening statements and otherwise) for the first day of trial. Thereafter, at the end of each trial day (generally, by 2:00 p.m.), counsel must give notice of the order of proof for the next trial day. The parties must notify the court of any issues by the end of the day so that the court can resolve them. To the extent that the parties will call hostile witnesses, which means that the opposing party's "cross examination" will be its direct examination, counsel must provide a list of all exhibits to be used with the same witness on cross examination (other than for impeachment). The parties will call their joint witnesses only once (which means that those witnesses will be called during the plaintiff's case).

**IT IS SO ORDERED.**

Dated: October 22, 2022



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LAUREL BEELER  
United States Magistrate Judge